

TEACHERS' RETIREMENT BOARD
INVESTMENT COMMITTEE

SUBJECT: Update on State Legislation

ITEM NUMBER: 9

ATTACHMENT(S): 1

ACTION: X

MEETING DATE: June 2, 1999

INFORMATION:

PRESENTER: Mr. Derman

SUMMARY

Staff has prepared the attached analysis and recommended position on the following measure for the Board's consideration:

Bill Number	Author	Subject
SB 1245	Hayden	CalSTRS and CalPERS investments in corporations owing compensation for using slave and forced labor in World War II

Senate Bill 1245

Senator Hayden (As Amended 4/27/99)

Position:

Neutral (Staff Recommendation)

Proponents:

Association of Holocaust Survivors from former USSR, Auschwitz Study Foundation, Inc., B'Nai Tikvah Congregation, City of Los Angeles, Hebrew Union College-Jewish Institute of Religion, National Council of Jewish Women, Skirball Cultural Center, Southern California Council for Soviet Jews, Survivors of the Shoah, Valley Beth Shalom

Opponents:

None Known

SUMMARY

SB 1245, an urgency measure, requires the Teachers' Retirement Board, the Public Employees' Retirement System (CalPERS) Board of Administration and the State Treasurer to monitor investments in businesses that owe compensation to victims of slave labor from 1935 to 1945.

SB 1245 also authorizes any World War II slave labor victim or World War II forced labor victim, or heir of the victim, to bring a court action in California to recover compensation for labor performed against any person who received the benefit of that labor. The bill provides that any action brought will not be dismissed for failure to comply with the applicable statute of limitations, two years for an action based on contract, if the action is commenced on or before December 31, 2010. These latter provisions have no direct impact on CalSTRS, and are not addressed further in this analysis.

HISTORY

AB 2443 (Burton) of 1989 (vetoed) would have required the Board to annually investigate the extent to which U.S. corporations operating in Northern Ireland in which CalSTRS' assets were invested were adhering to nondiscrimination principles. The Board adopted an Oppose position because the necessary information to comply with provisions of the bill was not available at the time.

AB 1330 (Burton) of 1991 (vetoed) was identical to SB 105 (Burton, 1998) which requires CalSTRS and CalPERS to produce an annual investment report (see below). The Board adopted a Neutral position.

AB 1527 (Burton) of 1993 (vetoed) was nearly identical to SB 105 (Burton, 1998) which requires CalSTRS and CalPERS to produce an annual investment report (see below). The Board adopted a Neutral position.

SB 1879 (Hayden) 1997 (vetoed) would have prohibited state trust funds and state trust moneys from being used in any business arrangements or transactions involving Swiss banks or Swiss investment firms and prohibited state moneys from being deposited with or used to make any business arrangements or transactions with Swiss banks or Swiss investment firms, unless the State Treasurer determined that the bank or firm satisfactorily settled with parties involved in a dispute with the bank or firm about assets owned by Holocaust victims that were being held by the bank or firm. The bill was amended to delete provisions impacting CalSTRS investments. The Board adopted No Position on that bill.

AB 1715 (Knox) 1997 (vetoed) proposed the Holocaust Victim Insurance Relief Act of 1998 and required the Insurance Commissioner to establish and maintain the Holocaust Insurance Registry, which would have contained records and information relating to insurance policies of possible victims of the Holocaust. In addition, any Holocaust victim, or heir of a Holocaust victim, who resided in California and had a claim arising out of an insurance policy purchased or in effect in Europe before 1945 could have brought a legal action to recover on that claim. Under the bill any claim could not be dismissed for failure to comply with the statute of limitation, if the action was commenced on or before December 31, 2010.

Chapter 43, Statutes of 1998 (AB 1334) permits any Holocaust victim, or heir of a Holocaust victim, who resided in California and had a claim arising out of an insurance policy purchased in Europe between 1920 and 1945 from a specified insurer to bring a legal action to recover on a claim. Any action brought by a Holocaust victim or the heir or beneficiary of a Holocaust victim, whether a resident or nonresident of this state, seeking proceeds of the insurance policy issued or in effect between 1920 and 1945 would not have been dismissed for failure to comply with the applicable statute of limitation if commenced on or before December 31, 2010.

SB 105 (Burton) of 1998 requires the CalSTRS Board and the CalPERS Board of Administration to annually investigate the extent to which U.S. and international corporations operating in Northern Ireland, and in which the assets of these systems are invested, adhere to the principles of nondiscrimination in employment and freedom of workplace opportunity. Requires CalSTRS and CalPERS to compile a list of corporations operating in Northern Ireland and to provide information on the corporations' efforts to achieve specific goals concerning equal opportunity for employees. Requires CalSTRS and CalPERS, whenever feasible, to support shareholder resolutions designed to encourage corporations in which it has invested to pursue a policy of affirmative action in Northern Ireland. The Board adopted a Support position.

CURRENT PRACTICE

CalSTRS does not currently maintain a list or monitor the System's investments in companies and their affiliates doing business in California that owe compensation to victims of Nazi slave and forced labor from 1935 to 1945.

DISCUSSION

According to the author of SB 1245, under the Nazi concentration camp system, the inmates were "loaned," for a set fee, to private German industry. The inmates did not personally receive compensation for their services. German banks were also involved in slave and forced labor arrangements by financing these activities of the Nazi SS.

Governor Davis is a plaintiff in a lawsuit filed on March 5, 1999 by the Simon Weinsenthal Center of Los Angeles on behalf of several individual California residents who were used as slave labor and otherwise persecuted during the Nazi holocaust (Superior Court, Los Angeles County, Case #BC206512). The lawsuit was filed as a private attorney general suit. Causes of action include intentional infliction of emotional distress and unfair business practices. The plaintiffs are seeking recovery for the value of the services performed and punitive damages. One of the defendants named in the suit is Philipp Holzman AG, and its California subsidiary, Holzman USA and Metric Constructor's, Inc. in California. This company built the Lufthansa Aircraft Hanger in Frankfurt between 1959 and 1961.

Proposition 162, the Pension Simplification Act of 1992, granted public employees' retirement systems sole and exclusive constitutional authority over their respective investment and administrative decisions (Article XVI of the California Constitution, Section 17). The duty of a public retirement system board to its participants and beneficiaries takes precedence over any other duty set forth by the Legislature. SB 1245 is distinct, however, from previous corporate investment bills. This bill does not propose the divestment of stocks owned by the System, nor does it limit or restrict the corporations or types of stocks that may be held by the System.

The provision of SB 1245 requiring CalSTRS to monitor and report to the Legislature on investments in companies and their affiliates doing business in California that owe compensation to victims of slaved and forced labor from 1935 to 1945 does not impose a significant burden on CalSTRS. There are vendors that can provide the necessary information, and assist the System in maintaining and evaluating the data, on an ongoing basis. As drafted, however, it is not clear whether a report is submitted only once, or on an ongoing basis.

FISCAL IMPACT

Benefit Program - No impact.

Administration- It is likely that CalSTRS holds investments in corporations that do business in California that owe compensation to victims of slave labor between 1935 and 1945. Staff is currently estimating the extent of the system's holdings in these corporations.

There does not appear to be any significant cost or other impact to compile the list or monitor the system's investments in these corporations. The Investor Responsibility Research Center (IRRC) is an independent non-profit research provider whose products have been used by CalSTRS to determine the impact of divestment measures. The IRRC could provide the information needed to implement SB 1245 through their evaluation service, at an estimated total cost of under \$10,000.

RECOMMENDATION - Neutral

Staff recommends the Board adopt a Neutral position on SB 1245. The bill, in its current form, would not limit the Board's investment authority, or impose any significant administrative burden on the System.

LEGEND OF ABBREVIATIONS

P = PROPONENTS O = OPPONENTS

<u>ABBREVIATION</u>	<u>ORGANIZATION</u>
AALA	Associated Administrators of Los Angeles
ACCCA	Association of California Community College Administrators
ACSA	Association of California School Administrators
AFSCME	American Association of State, County and Municipal Employees
AFT	American Federation of Teachers
AGENCY	State and Consumer Services Agency
ART	Association of Retired Teachers
BOE	Board of Equalization
BOG	Board of Governors, California Community Colleges
Cal-Tax	California Taxpayers Association
CalPERS	California Public Employees Retirement System
CalPIRG	California Public Interest Research Group
CalSTRS	California State Teachers' Retirement System
CASBO	California Association of School Business Officers
CCA	Community College Association
CCAE	California Council for Adult Education
CCC	California Community Colleges
CFA	California Faculty Association
CFT	California Federation of Teachers
CPCA	California Police Chiefs' Association
CPFFA	California Professional Firefighters Association
CPOA	California Peace Officers' Association
CRTA	California Retired Teachers Association
CSAC	California State Association of Counties
CSBA	California School Boards Association
CSEA	California School Employees Association
CSL	California Senior Legislature
CSU	California State University
CTA	California Teachers Association
DOE	Department of Education
DOF	Department of Finance
DGS	Department of General Services
DPA	Department of Personnel Administration
FACCC	Faculty Association of California Community Colleges
F.A.I.R.	Faculty Attempting to Improve Retirement
FCPHE	Faculty Coalition for Public Higher Education
FTB	Franchise Tax Board
LADSA	Los Angeles Deputy Sheriffs' Association
LAUSD	Los Angeles Unified School District
OCDE	Orange County Department of Education

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<u>ABBREVIATION</u>	<u>ORGANIZATION</u>
PARS	Public Agency Retirement System
PERF	Public Employees Retirement Fund
RPEA	Retired Public Employees Association
SACRS	State Association of County Retirement Systems
SBMA	Supplemental Benefit Maintenance Account
SDCOE	San Diego County Office of Education
SEIU	Service Employees International Union
SLC	State Lands Commission
SSC	School Services of California
SSDA	Small School Districts' Association
START	State Teachers' Automation Redesign Team
TRB	Teachers' Retirement Board
TRF	Teachers' Retirement Fund
TRL	Teachers' Retirement Law
UTLA	United Teachers of Los Angeles

STANDING COMMITTEES OF THE ASSEMBLY/SENATE

Assembly PER&SS	Assembly Public Employees, Retirement and Social Security
Senate PE&R	Senate Public Employment and Retirement